

### Remarks

In response to the Office Action dated February 9, 2009, Applicant respectfully requests reconsideration based on the above claim amendments and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance. Claims 1, 11, 20, 30 have been amended. No new matter has been added. Support for the additional subject matter added to the claims may be found in paragraph 36.

### Interview Summary

The undersigned participated in a telephone interview with the Examiner on February 9, 2009. During the interview it was agreed that the Petersen reference failed to disclose that packetized data signals and telephony signals travel on the same fiber optic network.

### 103 Rejections

Claims 1, 2, 5, 6, 8, 10, 11, 20, 30 and 31 stand rejected under 35 USC 103(a) as being unpatentable over Tomich (US Pat. 5,983,068) in view of Farber (US Pat. 6,486,907) and in further view of Petersen (US 2001/0012293). Claims 7, 9 13-16, and 22-23 stand rejected under 35 USC 103(a) as being unpatentable over Tomich, Farber and Petersen and further in view of the alleged admitted prior art of the Applicant (AAPA). Claims 29 and 31 stand rejected under 35 USC 103 (a) as being unpatentable over Tomich, Farber and Petersen and further in views of Burns (US 6,298,373). Applicant respectfully traverses the rejections to the extent that they apply to the currently pending claims.

#### Claims 1-2 and 5-10

It is respectfully submitted that the combination of Tomich, Farber, and Petersen fail to describe each and every feature recited by claim 1. For example, claim 1 recites “a plurality of multiplexers in communication with the central office, wherein the central office transmits both a telephony signal and a packetized data signal over the same fiber optic network to the plurality of multiplexers.”

The Office Action concedes that the Tomich and Farber fail to describe that the central office transmits both a telephony signal and a packetized data signal over the same network. Thus, Tomich and Farber also fail to describe that the central office transmits both a telephony signal and a packetized data signal over the same fiber optic network. Petersen describes simultaneously multiplexing voice and non-voice data over a PSTN access line. However, Petersen fails to account for a central office transmitting over a fiber optic network both a telephony signal and a packetized data signal as recited by claim 1. Hence, Petersen fails to account for the noted deficiency of Tomich and Farber.

Therefore, the combination of Tomich, Farber and Petersen fail to describe each and every feature recited by claim 1 such that claim 1 is allowable over the combination of Tomich, Farber, and Wagner. Claims 2 and 5, 6, 8 and 10 depend from claim 1 and are allowable for at least the same reasons and claim 1.

Claims 7 and 9 stand rejected as being unpatentable over Tomich, Farber and Petersen and further in view of the alleged AAPA. However, the alleged AAPA fails to account for the noted deficiency in relation to claim 1. Claims 7 and 9 depend from claim 1 and are allowable for at least the same reasons as claim 1.

#### Claims 11 and 13-16

It is respectfully submitted that the combination of Tomich, Farber, and Petersen fail to describe each and every feature recited by claim 11. For example, claim 11 recites “transmitting a second signal and a third signal ... the second signal comprising at least a voice signal, the third signal comprising at least a packetized data signal, the second signal and third signal transmitted through the right-of-way via the same fiber optic network.”

The Office Action concedes that the Tomich and Farber fail to describe transmitting through a right-of-way both a telephony signal and a packetized data signal via the same network. Thus, Tomich and Farber also fail to describe transmitting through the right-of-way both a telephony signal and a packetized data signal via the same fiber optic network. Petersen describes simultaneously multiplexing voice and non-voice data over a PSTN access line. However, Petersen fails to account for transmitting through the right-of-way both a telephony signal and a packetized data signal via the same fiber optic network as recited by claim 11. Hence, Petersen fails to account for the noted deficiency of Tomich and Farber.

Therefore, the combination of Tomich, Farber and Petersen fail to describe each and every feature recited by claim 11 such that claim 11 is allowable over the combination of Tomich, Farber, and Wagner. Claims 13-16 stand rejected as being unpatentable over Tomich, Farber and Petersen and further in view of the alleged AAPA. However, the alleged AAPA fails to account for the noted deficiency in relation to claim 11. Claims 13-16 depend from claim 11 and are allowable for at least the same reasons as claim 11.

#### Claims 20-23 and 29

It is respectfully submitted that the combination of Tomich, Farber, and Petersen fail to describe each and every feature recited by claim 20. For example, claim 20 recites “transmitting a second signal and a third signal ... the second signal comprising at least a voice signal, the third signal comprising at least packetized data, the second signal and third signal transmitted through the right-of-way via the same fiber optic network.”

The Office Action concedes that the Tomich and Farber fail to describe transmitting through a right-of-way both a telephony signal and a packetized data signal via the same network. Thus, Tomich and Farber also fail to describe transmitting through the right-of-way both a telephony signal and a packetized data signal via the same fiber optic network. Petersen describes simultaneously multiplexing voice and non-voice data over a PSTN access line. However, Petersen fails to account for transmitting through the right-of-way both a telephony signal and a packetized data signal via the same fiber optic network as recited by claim 20. Hence, Petersen fails to account for the noted deficiency

of Tomich and Farber.

Therefore, the combination of Tomich, Farber and Petersen fail to describe each and every feature recited by claim 11 such that claim 11 is allowable over the combination of Tomich, Farber, and Wagner. Claim 21 depends from claim 20 and is allowable for at least the same reasons as claim 20.

Claims 22-23 stand rejected as being unpatentable over Tomich, Farber and Petersen and further in view of the alleged AAPA. However, the alleged AAPA fails to account for the noted deficiency in relation to claim 20. Claims 22-23 depend from claim 20 and are allowable for at least the same reasons as claim 20.

Claim 29 stands rejected as being unpatentable over Tomich, Farber and Petersen and further in view of Burns. However, Burns fails to account for the noted deficiency in relation to claim 20. Claim 29 depends from claim 20 and is allowable for at least the same reasons as claim 20.

#### Claims 30 and 31

It is respectfully submitted that the combination of Tomich, Farber, and Petersen fail to describe each and every feature recited by claim 30. For example, claim 30 recites “receiving both a telephony signal and a packetized data signal by a multiplexer over the same fiber optic network, wherein the telephony signal and packetized data signal travel through a right-of-way to be received by the multiplexer.”

The Office Action concedes that the Tomich and Farber fail to describe receiving across a right-of-way by a multiplexer both a telephony signal and a packetized data signal over the same network. Thus, Tomich and Farber also fail to describe receiving across the right-of-way by a multiplexer both a telephony signal and a packetized data signal over the same fiber optic network. Petersen describes simultaneously multiplexing voice and non-voice data over a PSTN access line. However, Petersen fails to account for receiving across the right-of-way by a multiplexer both a telephony signal and a packetized data signal over the same fiber optic network as recited by claim 30. Hence, Petersen fails to account for the noted deficiency of Tomich and Farber.

Therefore, the combination of Tomich, Farber and Petersen fail to describe each and every feature recited by claim 30 such that claim 30 is allowable over the

combination of Tomich, Farber, and Wagner. Claim 31 stands rejected as being unpatentable over Tomich, Farber and Petersen and further in view of Burns. However, Burns fails to account for the noted deficiency in relation to claim 30. Claim 31 depends from claim 30 and is allowable for at least the same reasons as claim 30.

Conclusion

Applicants assert that the application including claims 1-2, 5-11, 13-16, 20, 22-23, 26 and 29-31 are in condition for allowance. Applicants request that a Notice of Allowability be provided. Should the Examiner have any questions or comments, the Examiner is invited to call the undersigned at the number listed below.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: April 9, 2009

/Daniel J. Layden/

Daniel J. Layden  
Reg. No. 60,921

Withers & Keys, LLC  
P.O. Box 71355  
Marietta, GA 30007-1355  
(770) 643-8912